

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

PAJARO VALLEY UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2013090347

ORDER GRANTING REQUEST TO
CONTINUE THE PREHEARING
CONFERENCE

On April 28, 2014, a telephonic prehearing conference (PHC) was held before Administrative Law Judge (ALJ) Adeniyi A. Ayoade, Office of Administrative Hearings (OAH). Susan Foley, Attorney at Law, appeared on behalf of Student (Student). Laurie E. Reynolds, Attorney at Law, appeared on behalf of the Pajaro Valley Unified School District (Pajaro Valley). The PHC was recorded. Based on discussion with the parties, the ALJ issues the following order:

Request for Continuance

At the beginning of prehearing conference, the attorney for Student indicated that Student would be filing an amended request for due process hearing (amended complaint) in order to include a new issue, which has arisen since her complaint was filed with OAH. Student explained that the new issue to be presented in the amended complaint arose out of Pajaro Valley's recent individualized education program offer, and, as such, could not have been presented earlier. Student requested that the prehearing conference be continued to give her time to file her amended complaint, which would cause all dates in this matter to be reset.

Both parties agreed that it would serve the interest of judicial economy to amend the complaint in order to resolve all issues in a single due process hearing. Accordingly, District does not oppose the request to continue the prehearing conference. As discussed below, Student's request to continue the prehearing conference is granted.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice, unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the

interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See, Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See, Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed Student's request for good cause and considered all relevant facts and circumstances. Good cause is established for continuing the prehearing conference. Accordingly, Student's request to continue the prehearing conference is:

☒ Granted. The prehearing conference and the due process hearing dates are set as follows:

Prehearing Conference:	May 2, 2014, at 1:00 p.m.
Due Process Hearing:	May 8, at 9:30 a.m., ¹ and continuing day-to-day Monday through Thursday thereafter at the discretion of the ALJ.

IT IS SO ORDERED.

DATE: April 28, 2014

ADENIYI AYOADE
Administrative Law Judge
Office of Administrative Hearings

¹ In addition to the request to continue the prehearing conference date, both parties requested that the due process hearing dates in this matter be continued to August 26, 2014. That request was denied at this time because of the anticipated filing of the amended complaint which would reset all dates in this matter.